

Notice of Allowability

Application No.

10/607,878

Examiner

Jaworski Francis J.

Applicant(s)

SHEHADA, RAMEZ E.N.

Art Unit

3768

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE 3/28/07.
2. ☒ The allowed claim(s) is/are 1,3-5,7,9-21 and 23-32.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Francis J. Jaworski
Primary Examiner

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Greenleaf et al (US4105018) in Fig. 4 shows what might conceivably be defined as a movable 'fluid communicating' partial chamber comprised of elements 21 & 22 and 34 – 36 which receives the breast, is rotatable about a vertical axis and has an ultrasonic transmitter and receiver coupled thereto, with free fluid communication at all times with stationary chamber 30 - 31. However under such an interpretation this construct cannot be interpretable as also 'configured to hold fluid' as called for in the claim.

Alternately stated, the Examiner is acknowledging here that the paradoxical ability of a containment to hold fluid and freely maintain patency with further fluid containment space as a 'leaky bucket' construct (Examiner's descriptor) forms the essence of a *fluid dampener function* which both holds fluid and permits fluid communication at all times. This advantageously allows fluid equilibration as the movable chamber position changes but mitigates turbulence during movement as noted in the specification. The construct of Greenleaf et al cannot provide such an advantageous result of both holding fluid and patency at all times for freely fluid communicating with the stationary chamber.

With respect to the obligation that claim 9 further modify or restrict with respect to this feature of claim 1, the base claim is considered to generically pertain to the fluid dampening/equilibrating ability at times of equilibrium as well as during the dynamic of motion during which flow through the openings occurs, whereas the latter claim is

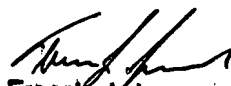
Art Unit: 3768

interpreted as pertaining to the dynamic and therefore there is further modification of scope.

Commonly assigned Marmarelis (US7094205) is cited to complete the record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication should be directed to Jaworski Francis J. at telephone number 571-272-4738.


Francis J. Jaworski
Primary Examiner

FJJ:fjj

6-24-07